SMALL CLAIMS COURT AND GENDER-SPECIFIC REFERENCES

UP

BEFORE THE

COMMITTEE ON THE DISTRICT OF COLUMBIA HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 1631 and H.R. 1632

TO AMEND TITLE 11, DC CODE

JUNE 9, 1993

Serial No. 103-5

Printed for the use of the Committee on the District of Columbia

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SMALL CLAIMS COURT

The committee approved (House Report 103–174) and on July 19, 1993, the House passed H.R. 1631 to increase the jurisdiction of the Small Claims Division of DC Superior Court.

The courts and consumer groups agree that greater use of the simpler procedures of Small Claims Court for civil cases will reduce the overloaded Superior Court Civil Calendar and help litigants resolve their disputes.

GENDER BIAS IN THE COURTS

The committee approved (House Report 103–175) and on July 19, 1993, the House passed H.R. 1632, to remove gender-specific language in title 11 of the DC Code, dealing with the structure and procedures of the local courts. (Title 11 is reserved for amendment by Congress only).

Court personnel have been working on reducing bias against women reflected in the forms and procedures of the courts.

MARKUP—H.R. 1631 AND H.R. 1632

WEDNESDAY, JUNE 9, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, DC.

The committee met, pursuant to call, at 10:27 a.m., in room 1310-A, Longworth House Office Building, Hon. Fortney Pete Stark (chairman of the committee) presiding.

Members present: Representatives Stark, Dellums, McDermott, Norton, Jefferson, Bliley, Saxton, and Ballenger.

Majority staff present: Broderick D. Johnson, staff director; Dietra L. Ford, senior legislative associate; Dale MacIver, senior staff counsel; Ronald C. Willis, subcommittee staff director; David Julyan, Marvin R. Eason, and Rene Carter, staff assistants; and Louise Winston, research assistant.

Minority staff present: Dennis G. Smith, staff director; David Anderson, chief counsel; Matthew Farley, Laurie Bink, Rick Dykema, and Ashley Rehr, staff assistants.

The CHAIRMAN. The committee will convene.

[The text of bill H.R. 1631 follows:]

103D CONGRESS
1ST SESSION

H. R. 1631

To amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 1993

Ms. NORTON introduced the following bill; which was referred to the Committee on the District of Columbia

---

A BILL

To amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Justice Reform Act of 1993".

SEC. 2. INCREASE IN MAXIMUM AMOUNT IN CONTROVERSY PERMITTED FOR CASES UNDER JURISDICTION OF SMALL CLAIMS AND CONCILIATION BRANCH OF SUPERIOR COURT.

(a) IN GENERAL.—Section 11–1321, D.C. Code, is amended by striking "$2,000" and inserting "$5,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cases filed with the Superior Court of the District of Columbia on or after the date of the enactment of this Act.

○

OPENING STATEMENT OF CHAIRMAN PETE STARK

The CHAIRMAN. We have two bills to mark up this morning, so we will proceed to business. Members have other matters scheduled. I apologize for the tardiness of the meeting. I hope we can finish still by not long after 11 o'clock.

The first of the two bills is H.R. 1631, involving small claims court, which in all States are known to be user friendly, permitting a person to have a dispute or claim decided by a judge in an informal setting.

The small claims and conciliation division of the DC Superior Court handles thousands of cases each year. By raising the ceiling on claims before the court from $2,000 to $5,000, it is estimated that 5,000 of the 15,000 cases filed in superior court could be handled in the small claims court should the parties so choose.

We have been contacted in support of H.R. 1631 by consumer groups, the legal counsel for the elderly of the AARP, Professor Joan Strand of George Washington University's Legal Clinics, and by HALT, an organization of Americans for Legal Reform.

[The letters follow:]

The George Washington University
WASHINGTON DC

THE JACOB BURNS COMMUNITY LEGAL CLINICS

ADMINISTRATIVE ADVOCACY
CIVIL LITIGATION
CONSUMER MEDIATION
FEDERAL AND APPELLATE
IMMIGRATION
LATINO PROJECT
SMALL BUSINESS

June 1, 1993

The Honorable Pete Stark
U.S. House of Representatives
Committee on the District of Columbia
Room 1310, Longworth House Office Building
Washington, D.C. 20515

Re: H.R. 1631

Dear Congressman Stark:

I am writing to express my views on H.R. 1631, which would raise the jurisdictional limit in the Small Claims and Conciliation Branch of D.C. Superior Court from $2000 to $5000. By way of background, I am a Professor of Clinical Law and direct the Civil and Family Litigation Clinic at George Washington University's National Law Center. Each semester, I supervise students who represent indigent citizens of the District of Columbia in civil and family cases in D.C. Superior Court. Under my supervision, students handle several cases per year for both plaintiffs and defendants in the Small Claims Branch as well as the Civil Division of D.C. Superior Court. I have been engaged in clinical teaching in this area of practice for more than fifteen years.

From my perspective, the impact of the bill should be evaluated in terms of how it affects plaintiffs and defendants. For potential plaintiffs, it means that the faster and easier procedures of Small Claims court will now be available for filing claims seeking to recover larger amounts of money. I view this as a benefit to individuals who wish to seek redress through the courts, but who cannot afford to hire a lawyer. It is much simpler and speedier to lodge a Small Claims complaint than it is to file a similar action in the Civil Division of the court, where the rules are more complex. Cost is also a factor. The current filing fee for a Small Claims action is $5.00 or $10.00 (depending upon the amount of damages sought) compared to $120.00 for an action filed in the Civil Division. Thus, individual citizens will have greater access to a cheaper and less complicated route to the courthouse.

On the other hand, the increase in the jurisdictional amount in Small Claims court will also mean that more corporate

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plaintiffs will be filing claims against individual defendants in the Small Claims Branch rather than the Civil Division. This is probably the most common criticism launched against small claims-type courts as institutions - they become collection agencies for businesses suing consumers for unpaid bills. The fact remains, however, that the creditors will file their suits somewhere - either in Small Claims or in Civil Division - and in my opinion it is more difficult for unsophisticated defendants to defend cases in the Civil Division than it is in the Small Claims Branch. Cases filed against individuals in the Civil Division often go by default because the defendants fail to realize that they are required to file a written answer in order to protect their right to a trial. Failure to comply with discovery rules is another pitfall for pro se litigants in civil cases. In Small Claims Court, while it is true that a larger volume of cases is processed against defendants in a much shorter period of time, the procedure for defending a case is much simpler. No written pleadings are required in Small Claims Court; to avoid a default, the defendant just has to appear on the hearing day. Also, mediation is mandatory on the hearing date. Trained mediators listen to both sides of the case and try to help both sides come to a fair agreement to resolve the case without going through a trial.

Considering the above, my position is that I would support raising the Small Claims limit from $2000 to $5000. I feel that the problems that are posed for defendants in both Small Claims and Civil Division can be alleviated by providing more representation to persons who need it but cannot afford it; they are not a consequence of the process by which they are brought into court. Thus, while I feel there would be little negative impact on defendants in general, there would be a positive impact by allowing greater access to the courts to individual plaintiffs.

Sincerely,

Joan H. Strand
Professor of Clinical Law

JHS:js

AARP

Bringing lifetimes of experience and leadership to serve all generations.

Legal Counsel for the Elderly
601 E Street, N.W.
Washington, DC 20049
(202) 434-2120
Fax: (202) 434-6464

May 14, 1993

Honorable Fortney Pete Stark
Chairman
Committee on the District of Columbia
U.S. House of Representatives
Longworth House Office Building
Room 1310
Washington, D.C. 20515

Dear Representative Stark:

Legal Counsel for the Elderly is pleased to support Bill H.R. 1631, which raises the small claims jurisdictional limit from $2,000 to $5,000. Legal Counsel for the Elderly is sponsored by the American Association of Retired Persons and the D.C. Office on Aging. We represent low-income elderly persons who reside in the District of Columbia. Many of our clients live in community residence facilities ("board and care homes") or nursing homes, and consequently have great difficulty retaining lawyers to represent them in court. These individuals are very often the victims of financial exploitation and theft. Our other clients who own their own homes are increasingly the victims of home improvement scams. (The D.C. Department of Consumer and Regulatory Affairs receives more home improvement complaints than any other type of consumer complaint.) The increase of the jurisdictional limit will mean that more of these individuals will be able to file their cases in the small claims branch of D.C. Superior Court. They should receive quicker decisions at less cost to themselves.

Since Bill H.R. 1631 will mean that more of our clients will be able to file claims on their own without having to hire a lawyer, their cases will likely be referred to a skilled mediator. In many of these cases, a court trial will be unnecessary. According to a recent study of the D.C. mediation program, seventy-six percent of the small claims litigants thought the outcome of their mediation session was fair, and eighty-two considered the mediation procedures fair. In contrast, only 50 percent of the litigants considered the outcome of the trial fair.

In sum, we support this bill for the following reasons: 1) low-income persons will be a able to file a case more easily because they will not need to pay a lawyer; 2) low-income persons will be able to receive a decision more expeditiously; 3) skilled mediators will be able to assist low-income older persons reach a fair settlement of their cases; 4) institutionalized individuals, who have a very difficult time finding a lawyer to assist them, will have greater access to the court system if they can file a claim in small claims court.

The higher jurisdictional limit which will make the court system more accessible to older disabled persons, is consistent with the Americans with Disabilities Act. In the future, we would appreciate the opportunity to discuss with your staff ways to increase access to the District of Columbia court system for disabled persons, especially those in long-term care facilities.

If you have any questions about our position, please do not hesitate to contact me.

Sincerely,

Michael R. Schuster

Michael R. Schuster
Manager of Litigation

cc: Honorable Eleanor Holmes Norton

HALT *An Organization Of*
AMERICANS FOR LEGAL REFORM

May 12, 1993

Pete Stark, Chairman
U.S. House of Representatives
Committee on the District of Columbia
Room 1310, Longworth HOB
Washington, DC 20515

Dear Chairman Stark:

HALT urges you to support H.R. 1631 which would increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia to $5,000 from the current jurisdictional limit of $2,000.

HALT is a national, nonpartisan, public interest organization for legal consumers, with more than 100,000 members nationwide and 500 in the District of Columbia. Through it education and advocacy activities, HALT works to enable individuals to dispose of their legal affairs more simply, affordably and equitably. Expanding the jurisdictional limit of DC's small claims court would serve that purpose as few other measures could.

Such courts are "user-friendly" forums in which people receive simple, affordable and prompt access to justice. Using streamlined procedures and informal rules, people involved in minor disputes can seek resolution without the expense, delays and complications of using lawyers. But as inflation has driven up the cost of repairs and medical care, fewer and fewer DC residents find the small claims court feasible to use. As a result, they are effectively shut out of the courthouse.

Denied access to the small claims court because their claims involve more than the amount allowed, their only recourse is to file in higher court. For most claims, that isn't a realistic option. Going it alone in higher court isn't practical because it was in recognition of their complexities and inefficiencies that the states created small claims courts (or branches) in the first place. And hiring a lawyer is equally unrealistic because many claims, while too "big" for small claims court, are simply too "small" to warrant paying for a lawyer's help.

If passed, the District of Columbia will join but a handful of states in this country that have jurisdictional limits at or above $5,000. HALT and its members believe that the increased dollar limit will increase the public's access and may help to reduce court congestion in the higher court. We urge you to pass this bill.

Sincerely,

William R. Fry
Executive Director

1319 F STREET NW ■ SUITE 300 ■ WASHINGTON, D.C. 20004 ■ (202) 347-9600

The CHAIRMAN. I would like to at this point recognize the ranking minority member, the gentleman from Virginia, Mr. Bliley for his comments on H.R. 1631.

STATEMENT OF REPRESENTATIVE THOMAS J. BLILEY ON H.R. 1631

Mr. BLILEY. Thank you, Mr. Chairman. I will be brief.

You have already pointed out that this would increase the number from $2,000 to $5,000, those cases in small claims, which, of course, will help relieve the courts of this matter so they can take up more serious cases.

We passed this in the last Congress and I hope that we will speedily pass it this morning and send it to the floor.

I ask unanimous consent to submit my whole statement in the record.

The CHAIRMAN. Without objection, the gentleman's entire statement will appear in the record.

[The prepared statement of Mr. Bliley follows:]

Statement of
Congressman Thomas J. Bliley, Jr.
Before the Committee on the District of Columbia
June 9, 1993
Mark-Up of H.R. 1631
A Bill to Amend Title 11 of the D.C. Code
To Increase the Jurisdiction of
the Small Claims Court

Mr. Chairman, H.R. 1631 would increase the maximum amount of controversy permitted for cases under the jurisdiction of the Small Claims division of the District of Columbia Superior Court from $2,000 to $5,000, thereby dramatically reducing the number of cases on the Superior Court's civil docket. At a time when the District's local courts are doing everything in their power to make do with less, H.R. 1631 represents one relatively simple way of freeing

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up valuable judicial resources for the Superior Court.

During the last session of Congress, the Corporation Counsel for the District, as well as the Chief Judge of the Superior Court, testified that increasing the jurisdictional limit of the Small Claims Court would reduce the Superior Court's civil docket by thirty-five percent, moving approximately 5,000 of the 15,000 cases on that docket to the Small Claims Court.

Mr. Chairman, We are fortunate to be faced with a legislative proposal that all sides agree will

have a positive effect on the District's judicial system. There is no question that removing more than one third of the civil cases on the Superior Court's docket by expanding the jurisdictional amount of the Small Claims Court will result in increased judicial efficiency.

Mr. Chairman, I strongly support passage of H.R. 1631 and urge my colleagues to do the same.

The CHAIRMAN. Are there other members who would like to be heard on H.R. 1631? Ms. Norton?

STATEMENT OF REPRESENTATIVE ELEANOR HOLMES NORTON

Ms. NORTON. Mr. Chairman, I have a statement which I would like admitted to the record. [The statement was not available at press time.]

The CHAIRMAN. Without objection.

Ms. NORTON. Thank you, Mr. Chairman. I want only to say that this is, perhaps, the most urgent of the pieces of legislation before us because it would immediately remove 5,000 of the 15,000 cases presently in our court's civil docket and would reduce by 35 percent the number of cases in the civil case load of the superior court. When one considers particularly criminal matters and the urgency of those matters, the priority the city must necessarily give to them, this becomes a very important piece of legislation with no extra cost.

I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. I thank the gentlewoman.

The CHAIRMAN. Are there any other comments?

[No response]

The CHAIRMAN. Hearing none, the question would occur on the motion. Is the gentlewoman from the District moving that we consider the bill favorably?

Ms. NORTON. I so move, Mr. Chairman.

The CHAIRMAN. All those in favor, signify by saying aye.

[A chorus of "aye."]

The CHAIRMAN. Those opposed, signify by saying no.

[No response.]

The CHAIRMAN. The bill will be reported.

H.R. 1632—Gender-Specific References

[The text of H.R. 1632 follows:]

15

103D CONGRESS
1ST SESSION

H. R. 1632

To amend title 11, District of Columbia Code, to remove gender-specific references.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 1993

Ms. NORTON introduced the following bill; which was referred to the Committee on the District of Columbia

---

A BILL

To amend title 11, District of Columbia Code, to remove gender-specific references.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES IN ACT.

Whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of title 11, District of Columbia Code.

SEC. 2. REMOVAL OF GENDER-SPECIFIC REFERENCES.

Title 11, District of Columbia Code, is amended as follows:

(1) Section 11–703(b) is amended by striking "during his service" and inserting "while serving".

(2) Section 11–705(d) is amended by striking "if he sat" and inserting "if the judge sat".

(3) Section 11–706(a) is amended by striking "his duties" each place it appears and inserting "the chief judge's duties".

(4) Section 11–706(b) is amended by striking "his successor" and inserting "the chief judge's successor".

(5) Section 11–709(2) is amended by striking "he attended" and inserting "the judge attended".

(6) Section 11–709(3) is amended by striking "his attendance" and inserting "the judge's attendance".

(7) Section 11–721(d) is amended by striking "he shall so state" and inserting "the judge shall so state".

(8) Section 11–744 is amended—

(A) in the first sentence, by striking "he" and inserting "the chief judge"; and

(B) in the second sentence, by striking "He" and inserting "The chief judge".

(9) Section 11–904(b) is amended by striking "during his service" and inserting "while serving".

(10) The second sentence of section 11–906(a) is amended to read as follows: "The chief judge shall attend to the discharge of the duties pertaining to the office of chief judge and perform such additional judicial work as the chief judge is able to perform.".

(11) Section 11–906(b) is amended by striking "He" and inserting "The chief judge".

(12) Section 907(a) is amended by striking "his duties" each place it appears and inserting "the chief judge's duties".

(13) Section 11–907(b) is amended by striking "his" and inserting "a".

(14) Section 11–908(a) is amended by striking "he is".

(15) Section 11–909(b)(2) is amended by striking "he" and inserting "the judge".

(16) Section 11–909(b)(3) is amended by striking "his" and inserting "the judge's".

(17) The third sentence of section 11–1322 is amended by striking "his salary" and inserting "that person's salary".

(18) Section 11–1501(a) is amended by striking "He" and inserting "The President".

(19) Section 11–1501(b) is amended—

(A) in the matter preceding paragraph (1), by striking "he" and inserting "that person"; and

(B) in paragraphs (2), (3), and (4), and in the last sentence, by striking "his" each place it appears.

(20) Section 11–1502 is amended by striking "his" and inserting "the judge's".

(21) Section 11–1503(a) is amended—

(A) in the first sentence, by striking "his successor" and inserting "a successor";

(B) in the second sentence, by striking "He" and inserting "The chief judge"; and

(C) in the third sentence, by striking "A judge may relinquish his position as chief judge" and inserting "The chief judge may relinquish that position".

(22) Section 11–1503(b) is amended by striking "he" and inserting "that person".

(23) Section 11–1505(a) is amended by striking "his" and inserting "the judge's".

(24) Section 11–1505(b) is amended by striking "judicial manpower in the court under his super-

vision" and inserting "judicial personnel in the court under the chief judge's supervision".

(25) Section 11–1522(a)(1)(A) is amended by striking "his".

(26) The last sentence of section 11–1522(a) is amended by striking "Chairman of the Commission one of his appointees" and inserting "Chair of the Commission one of the members appointed pursuant to paragraph (1)".

(27) Section 11–1522(b)(1) is amended by striking "his".

(28) Section 11–1523(b) is amended by striking "his predecessor" and inserting "that member's predecessor".

(29) Section 11–1523(c) is amended—

(A) by striking "his term" each place it appears and inserting "that member's term"; and

(B) by striking "his successor" and inserting "that member's successor".

(30) Section 11–1525(d) is amended by striking "Chairman" and inserting "Chair".

(31) Section 11–1526(b) is amended by striking "his" and inserting "the judge's".

(32) Section 11–1526(c)(1)(A) is amended by striking "his".

(33) The last sentence of section 11–1526(c)(1) is amended by striking "recover his salary and all rights and privileges of his office." and inserting "recover salary and all rights and privileges pertaining to the judge's office.".

(34) Section 11–1526(c)(2) is amended—

(A) in the first sentence, by striking "he" and inserting "the judge"; and

(B) in the third sentence, by striking "his" the first place it appears and inserting "the judge's", and by striking "his" the second place it appears.

(35) Section 11–1526(c)(3) is amended by striking "his" each place it appears.

(36) Section 11–1527(a)(1) is amended by striking "of his court" and inserting "of the court in which the judge serves".

(37) Section 11–1527(a)(2) is amended—

(A) by striking "He" each place it appears and inserting "The judge";

(B) in the second sentence, by striking "his" and inserting "the judge's";

(C) in the third sentence, by striking "his" and inserting "his or her"; and

(D) in the third sentence, by striking "him" and inserting "the judge".

(38) The fourth sentence of section 11–1527(a)(3) is amended by striking "of his court" and inserting "of the court in which the judge serves".

(39) Section 11–1527(c)(2) is amended by striking "his privilege" each place it appears and inserting "the witness's privilege".

(40) Section 11–1527(c)(3) is amended by striking "him" and "he" each place either appears and inserting "that person".

(41) Section 11–1527(e) is amended by striking "his".

(42) Section 11–1528(b) is amended—

(A) by striking "he" and inserting "the judge"; and

(B) by striking "his" and inserting "the judge's".

(43) Section 11–1530(a) is amended by striking "his" and inserting "the judge's".

(44) Section 11–1530(a)(1) is amended by striking "his" each place it appears and inserting "the judge's".

(45) Section 11–1530(a)(2) is amended by striking "he" and inserting "the judge".

(46) Section 11–1530(a)(3) is amended by striking "him or by him and his" and inserting "the judge or by the judge and the judge's".

(47) Section 11–1530(a)(4) is amended—

(A) by striking "him" and inserting "the judge"; and

(B) by striking "his" each place it appears and inserting "the judge's".

(48) Section 11–1530(a)(5) is amended by striking "he" each place it appears and inserting "the judge".

(49) Section 11–1530(a)(6) is amended by striking "he" and inserting "the judge".

(50) Section 11–1530(a)(7) is amended by striking "him" and inserting "the judge".

(51) Section 11–1561(8)(C) is amended by striking "he" each place it appears and inserting "the child".

(52) Section 11–1561(9)(C) is amended by striking "he" and inserting "the judge".

(53) Section 11–1561(10)(C) is amended by striking "he" and inserting "the judge".

(54) Section 11–1562 is amended by striking "he" each place it appears in subsections (a) and (b) and inserting "the judge".

(55) Section 11–1563 is amended—

(A) by striking "his" each place it appears in subsections (a) and (b) and inserting "the judge's"; and

(B) by striking "he" and "him" each place either appears in such subsections and inserting "the judge".

(56) Section 11–1563(c) is amended by striking "he" each place it appears and inserting "the judge".

(57) Section 11–1563(d) is amended—

(A) by striking "bring himself" and inserting "be"; and

(B) by striking "him" and inserting "the judge".

(58) The first sentence of section 11–1564(a) is amended by striking "his" each place it appears and inserting "the judge's".

(59) The second sentence of section 11–1564(a) is amended—

(A) by striking "his" each place it appears; and

(B) by striking "he" and inserting "the judge".

(60) The third sentence of section 11–1564(a) is amended by striking "his" and inserting "the judge's".

(61) Section 11–1564(b) is amended by striking "his" and inserting "the judge's".

(62) Section 11–1564(c) is amended—

(A) by striking "he" and inserting "the judge";

(B) by striking "his" the first two places it appears;

(C) by striking "his" the third place it appears and inserting "the judge's"; and

(D) by striking "his" the fourth place it appears.

(63) Section 11–1564(d)(1) is amended by striking "his" each place it appears and inserting "the judge's".

(64) Section 11–1564(d)(2)(A) is amended by striking "he" each place it appears and inserting "the judge".

(65) Section 11–1564(d)(2)(C) is amended by striking "his".

(66) Section 11–1564(d)(4) is amended by striking "his" and inserting "the judge's".

(67) Section 11–1564(d)(7) is amended—

(A) by striking "him" and inserting "the judge"; and

(B) by striking "his" each place it appears and inserting "the judge's".

(68) Section 11–1564(e) is amended—

(A) by striking "his"; and

(B) by striking "he" and inserting "the judge".

(69) Section 11–1566(a) is amended—

(A) by striking "he" each place it appears and inserting "the judge"; and

(B) by striking "bring himself" and inserting "elect to be".

(70) Section 11–1566(b) is amended—

(A) in paragraph (1), by striking "his" and inserting "the judge's";

(B) in paragraph (2), by striking "him" and inserting "the judge"; and

(C) in the second sentence, by striking "Commissioner" and inserting "Mayor".

(71) Section 11–1566(c) is amended by striking "he" and inserting "the judge".

(72) Section 11–1567(a) is amended—

(A) by striking "Commissioner" and inserting "Mayor";

(B) by striking "his" and inserting "the judge's"; and

(C) by striking "he or His" and inserting "the judge or the judge's".

(73) Section 11–1567(b) is amended—

(A) by striking "he" and inserting "the judge";

(B) by striking "Commissioner" each place it appears and inserting "Mayor"; and

(C) by striking "his" each place it appears and inserting "the judge's".

(74) Section 11–1568(a) is amended by striking "his" each place it appears and inserting "the judge's".

(75) The third sentence from the end of section 11–1568(c) is amended by striking "his death or marriage or his ceasing" and inserting "the child's death or marriage or ceasing".

(76) Section 11–1568(d) is amended—

(A) by striking "Commissioner" and inserting "Mayor"; and

(B) by striking "he" and inserting "the Mayor".

(77) Section 11–1569 is amended by striking "Commissioner" each place it appears and inserting "Mayor".

(78) Section 11–1569(b) Sixth is amended by striking "his" and inserting "the judge's".

(79) Section 11–1569(e) is amended by striking "his" and inserting "the claimant's".

(80) Section 11–1701(a) is amended by striking "Chairman" and inserting "Chair".

(81) Section 11–1702 is amended by striking "him" in subsections (a) and (b) and inserting "the Chief Judge".

(82) Section 11–1703 (a) is amended by striking "He" each place it appears and inserting "The Executive Officer".

(83) Section 11–1704 is amended by striking "his" each place it appears and inserting "that".

(84) Section 11–1721 is amended by striking "him" and inserting "the clerk".

(85) Section 11–1722 is amended by striking "he" each place it appears and inserting "the Director".

(86) Section 11–1723(b) is amended by striking "his" and inserting "that".

(87) Section 11–1724 is amended—

(A) in the second sentence, by striking "his" and inserting "that"; and

(B) in the third sentence, by striking "him" and inserting "the chief judge".

(88) Section 11–1727(b) is amended—

(A) in the third sentence, by striking "he" and inserting "the Executive Officer"; and

(B) in the fourth sentence, by striking "his" and inserting "the judge's".

(89) Section 11–1730(b) is amended by striking "he" and inserting "the Executive Officer".

(90) Section 11–1741 (4) and (7) are amended by striking "his" and inserting "the Executive Officer's".

(91) Section 11–1741(9) is amended by striking "him" and inserting "the Executive Officer".

(92) Section 11–1743(b) is amended by striking "his" and inserting "the President's".

(93) Section 11–1744(5) is amended by striking "him" and inserting "the Executive Officer".

(94) Section 11–1745(b) is amended—

(A) by striking "he" and inserting "the Executive Officer"; and

(B) in paragraph (2), by striking "Commissioner" and inserting "Mayor".

(95) Section 11–1747 is amended by striking "him" and inserting "the Executive Officer".

(96) Section 11–2102(a) is amended—

(A) by striking "his" each place it appears and inserting "the Register of Wills"; and

(B) in paragraph (2)(B), by striking "him" and inserting "the Register of Wills".

(97) Section 11–2102(b) is amended—

(A) by striking "he" and inserting "that person"; and

(B) in paragraph (2), by striking "his".

(98) Section 11–2104 is amended by striking "him" in subsections (a)(2) and (b)(2) and inserting "the Register of Wills".

(99) Section 11–2104(b)(6) is amended by striking "his" and inserting "the Register of Wills".

(100) Section 11–2104(c)(2) is amended—

(A) by striking "his" the first place it appears; and

(B) by striking "his" the second place it appears and inserting "the".

(101) Section 11–2104(d) is amended by striking "his" and inserting "the Register of Wills".

(102) Section 11–2104(e) is amended by striking "him" and "he" and inserting "the Register of Wills".

(103) Section 11–2303 is amended by striking "his" in subsections (a) and (b) and inserting "those".

(104) Section 11–2306(a) is amended by striking "he" and inserting "the medical examiner".

(105) Section 11–2306(c) is amended by striking "his".

(106) The first sentence of section 11–2307(a) is amended by striking "his".

(107) The second sentence of section 11–2307(a) is amended by striking "his" and inserting "the pathologist's".

(108) Section 11–2308(a) is amended by striking "he" and inserting "the medical examiner".

(109) Section 11–2309(b) is amended—

(A) by striking "Commissioner of the District of Columbia or his" and inserting "the Mayor of the District of Columbia or the Mayor's"; and

(B) by striking "his assistants" and inserting "the United States Attorney's assistants".

(110) Section 11–2309(c) is amended by striking "he" each place it appears and inserting "such person".

(111) Section 11–2311 is amended by striking "his" and inserting "his or her".

(112) Section 11–2502 is amended by striking "his" and inserting "such person's".

(113) Section 11–2503(a) is amended by striking "he" and inserting "such person".

(114) Section 11–2503(b) is amended by striking "him" each place it appears and inserting "that member".

(115) Section 11–2504 is amended by striking "him" and inserting "that attorney".

(116) Section 11–2601(1) is amended by striking "case which he" and inserting "case in which such person".

(117) The second sentence of section 11–2602 is amended—

(A) by striking "he" the first place it appears and inserting "he or she"; and

(B) by striking "him if he is" and inserting "the defendant or respondent if such person is".

(118) The third sentence of section 11–2602 is amended by striking "him" and inserting "that person".

(119) The sixth sentence of section 11–2602 is amended—

(A) by striking "him if he is" and inserting "the defendant or respondent if such person is"; and

(B) by striking "he may" and inserting "such person may".

(120) Section 11–2603 is amended—

(A) by striking "his" and inserting "such person's"; and

(B) by striking "he" and inserting "such person".

(121) Section 11–2604(f) is amended by striking "he" and inserting "such person".

(122) Section 11–2605(c) is amended by striking "him" and inserting "such person".

(123) Section 11–2607 is amended—

(A) by striking "Commissioner" and inserting "Mayor"; and

(B) by striking "his" and inserting "the Mayor's".

○

The CHAIRMAN. The second bill for markup is part of a national effort to free the judicial system from language reflecting deep-rooted bias against women. Over 150 Members of the House, including the Chair and many members of this committee, are co-sponsors of H.R. 1133 and S. 11, which provide for education for Federal and State court personnel about the way laws, customs and attitudes still engender bias against women in our Nation's courts.

In 1990, the District of Columbia courts commenced amending the rules of civil and criminal procedure to eliminate the persistent use of male-only gender references. As you can see in the first page of H.R. 1632, the same corrections need to be done in the District of Columbia Code sections which set up the local court system.

Because the Home Rule Act reserves to Congress any changes to the DC court system in title 11 of the DC Code, Congress must take this action rather than the DC Council. The general counsel of the District of Columbia Council informs us that in 1994 or 1995 the DC Code volume containing title 11 will be reprinted anyway. Thus, there is minimal cost for the changes being proposed in H.R. 1632.

We have received support from several organizations for these changes, including the DC Commission for Women and the DC League of Women Voters.

[The letters follow:]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
D C COMMISSION FOR WOMEN
ROOM N-354 REEVES CENTER
2000 14TH STREET N W
WASHINGTON D C 20009
(202) 939 8083

May 17, 1993

The Honorable Pete Stark
Chairman
Committee on the District of Columbia
United States House of Representatives
Room 1310, Longworth House Office Building
Washington, D.C. 20015

Dear Congressman Pete Stark:

It is an honor and privilege for the D.C. Commission for Women to be asked to comment on the merits of H.R. 1632, a bill to remove gender specific terms (he, his, him) from Title Eleven, D.C. Code, the District of Columbia law on the local courts.

The D.C. Commission for Women, which was established in 1967 by Executive Order 67-38 and by the legislative and executive branches of the District government in 1978 with the passage of the D.C. Commission Act, D.C. Law 2-109, has long been an advocate for the removal of sex based criteria from ALL of the laws that effect the citizens of the District of Columbia.

As the record will show, the Legal Task Force of the D.C. Commission on the Status of Women drafted the Anti-Sex Discriminatory Language Act (D.C. Law 1-87, effective October 1, 1976) which eliminated ALL sex bias criteria from the civil laws of the District of Columbia. The legislation was endorsed by the Commission and sponsored by then Council Member Polly Shackleton.

It was noted at the time that all of those revisions involved only civil laws, because Congress "temporarily withheld from the District Council any authority to amend D.C. Code Titles 22, 23, and 24 (the criminal law sections). The Council's legislative power over the above titles became effective on January 3, 1979, although the Congress reserved to its exclusive authority, from among the 47 titles of the D.C. Code, Title 11.

Today, as we find more and more women serving in our judicial system, it is imperative that ALL vestiges of gender-based distinctions that were almost always based on sex-myths, be removed from Title 11 of the District of Columbia code.

The D. C. Commission for Women believes that, as an increasing number of women enter the courts as judges and government as high level officials, the removal of ALL gender-specific references from the judicial code will go a long way in eliminating appearances of sexism as well as reducing any acts of sexism that may creep into the deliberations of the District of Columbia's judicial system.

We strongly support and applaud the efforts of the Committee on the District of Columbia to remove gender-specific references in title 11 and urge passage of H.R. 1632 by the House of Representatives.

Sincerely,

Lillian M. Long
Chair, D.C. Commission for Women

Annette J. Samuels
Executive Director

LEAGUE OF WOMEN VOTERS OF THE DISTRICT OF COLUMBIA
2025 Eye Street, NW, – Rm. 917 – Washington, DC 20006-1903
(202) 331-4122·4196

May 14, 1993

The Honorable Fortney "Pete" Stark
Committee on the District of Columbia
Room 1310, Longworth House Office Building
Washington, DC 20515

Dear Mr. Stark,

The League of Women Voters of the District of Columbia appreciates the opportunity to comment on H.R. 1632, a bill to remove gender-specific terms (he, his, him) from Title Eleven of the District of Columbia Code, concerning the courts of the District.

The District of Columbia League of Women Voters supports your bill as an effort to end discriminatory language in an important law. We are also pleased that the change can be incorporated in the planned reprinting of the Title next year.

The League of Women Voters was born out of the struggle to achieve voting rights for women. At its 1972 National Convention it explicitly included in its program opposition to all discriminatory practices against women and support of the goals of the Equal Rights Amendment.

Yours truly,

Grace Malakoff
President

I would like to recognize the gentleman from Virginia, Mr. Bliley, for his comments on H.R. 1632.

STATEMENT OF REPRESENTATIVE THOMAS J. BLILEY ON H.R. 1632

Mr. BLILEY. Thank you, Mr. Chairman. Again, I ask unanimous consent to submit my statement for the record.

I will not oppose this. We passed it before last Congress. I do think we probably could have done it in a less expensive manner, but nevertheless I will support this bill, H.R. 1632, and yield back the balance of my time.

[The prepared statement of Mr. Bliley follows:]

Statement of
Congressman Thomas J. Bliley, Jr.
Before the Committee on the District of Columbia
June 9, 1993
Mark-Up of H.R. 1632
A Bill to Amend Title 11 of the D.C. Code
To Remove Gender Specific References

Mr. Chairman, H.R. 1632, like the other bills we are visiting today, has been before this Committee in the past. While the proposal to amend Title 11 of the D.C. Code is non-controversial, questions continue to linger regarding the unnecessary cost of this legislation.

Certainly there is nothing wrong with writing statutes in gender neutral language. However, the

cost of printing and distributing a supplemental version of the amended Title 11, judging by the Council's and the Mayor's approach to gender neutrality for the rest of the D.C. Code, is an unwarranted one.

The D.C. Code accommodates gender neutrality with its Gender Rule of Construction, stating that "all the words...importing one gender [shall] include and apply to the other gender as well." The D.C. Council and the Mayor have not deemed it necessary to pass legislation similar to H.R. 1632, presumably because of the General Rule of Construction and the cost of printing and distribution.

Although Section 602 of the Home Rule Act precludes the Council and the Mayor from legislating with regard to Title 11, we can presume that if they could amend Title 11 they would treat it as they do the remainder of the D.C. Code.

Mr. Chairman, I will support the passage of H.R. 1632, and I expect it to pass the House as it did in the 102nd Congress, but I do think we could have taken a more frugal approach.

The CHAIRMAN. If there are no further comments, the Chair would like to offer an amendment, identified in your folder as 1632–A. It would make the same kind of changes to gender-specific language in the appendix to title 11 of the DC Code. Those changes were inadvertently omitted from the introduced version of the bill, and I would ask that, without objection, that amendment be added to the bill.

[The Stark amendment follows:]

STARK AMENDMENT NO. 1632A

AMENDMENT TO H.R. 1632

OFFERED BY MR. STARK

(references in District Charter)

Page 1, strike line 3 through page 2, line 3 and insert the following:

SECTION 1. REMOVAL OF GENDER-SPECIFIC REFERENCES IN TITLE 11, D.C. CODE.

(a) REFERENCES IN SECTION.—Whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of title 11, District of Columbia Code.

(b) REMOVAL OF REFERENCES.—Title 11, District of Columbia Code is amended as follows:

Add at the end the following new section:

SEC. 2. REMOVAL OF GENDER-SPECIFIC REFERENCES IN PROVISIONS OF DISTRICT CHARTER RELATING TO JUDICIARY.

(a) REFERENCES IN SECTION.—Whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) REMOVAL OF REFERENCES.—The District of Columbia Self-Government and Governmental Reorganization Act is amended as follows:

(1) Section 431(b) is amended—

(A) by striking "his successor" and inserting "a successor";

(B) by striking "his term" and inserting "the term"; and

(C) by striking "He" and inserting "An individual".

(2) Section 431(c) is amended by striking "his successor" and inserting "a successor".

(3) Section 431(e) is amended—

(A) in paragraph (1) in the matter preceding subparagraph (A), by striking "he—" and inserting "such person—";

(B) in paragraph (1)(B), by striking "his appointment" and inserting "appointment"; and

(C) in paragraph (1)(2), by striking "his predecessor" and inserting "such person's predecessor".

(4) Section 432(b) is amended by striking "his judicial duties" and inserting "judicial duties".

(5) Section 431(c) is amended—

(A) in paragraph (1), by striking "his salary" and all that follows and inserting "any salary and all other rights and privileges of office.";

(B) in paragraph (2)—

(i) by striking "as he may be entitled" and inserting "as the judge may be entitled,

(ii) by striking "his judicial salary" and inserting "judicial salary", and

(iii) by striking "his office" and inserting "office".

(6) Section 433(a) is amended by striking "to him".

(7) Section 433(b) is amended—

(A) by striking "he—" and inserting "the person—"; and

(B) by striking "his nomination" each place it appears and inserting "the nomination".

(8) Section 433(c) is amended—

(A) by striking "his term" the first place it appears and inserting "the judge's term";

(B) by striking "his term" the second place it appears and inserting "the term";

(C) by striking "his present" and inserting "the present";

(D) by striking "his fitness" and inserting "the candidate's fitness"; and

(E) by striking "he shall nominate" and inserting "the President shall nominate".

(9) Section 434(b) is amended—

(A) in paragraph (1) in the matter preceding subparagraph (A), by striking "he—" and inserting "the person—";

(B) in paragraph (1)(B), by striking "his appointment" and inserting "appointment"; and

(C) in paragraph (2), by striking "his predecessor" and inserting "such person's predecessor".

(10) Section 434(d)(2) is amended by striking "his recommendation" and inserting "the recommendation".

5

Amend the title so as to read: "A bill to amend title 11, District of Columbia Code, and Part C of title IV of the District of Columbia Self-Government and Governmental Reorganization Act to remove gender-specific references.".

The CHAIRMAN. Is there any objection?

[No response]

The CHAIRMAN. The Chair hearing none, that change will be made.

Is there a motion to adopt the amendment?

Ms. NORTON. I so move, Mr. Chairman.

The CHAIRMAN. Is there any discussion?

[No response]

The CHAIRMAN. If not, the question occurs on the amendment. All in favor, say aye.

[A chorus of "aye."]

The CHAIRMAN. Those opposed, signify by saying no.

[No response]

The CHAIRMAN. The ayes have it and the amendment is adopted.

We need a motion. I will entertain a motion to favorably report H.R. 1632 as amended to the House.

Ms. NORTON. So moved, Mr. Chairman.

The CHAIRMAN. Those in favor, signify by saying aye.

[A chorus of "aye."]

The CHAIRMAN. Those opposed, no.

[No response]

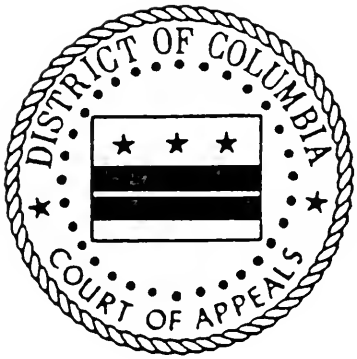
The CHAIRMAN. The ayes have it and the bill will be reported to the House.

APPENDIX I

Final Report

of the

Task Force on Racial and Ethnic Bias
and
Task Force on Gender Bias
in the Courts



District of Columbia Courts

May 1992

TASK FORCE ON GENDER BIAS

The Task Force on Gender Bias developed a definition of gender bias to inform and assist its investigation. The definition chosen best reflected the goal of the Task Force to conduct a broad inquiry while maintaining the integrity of the studies:

Gender bias exists:

- when people are denied rights or burdened with responsibilities on the basis of gender;
- when stereotypes about the proper behavior, relative worth and credibility of men and women are applied to people regardless of their individual situations;
- when men and women are treated differently in situations because of gender where gender should not make a difference; and
- when men or women are adversely affected by a legal rule, policy or practice that affects members of the opposite sex to a lesser degree or not at all.

Using this definition, the Task Force conducted its studies in four major areas: court administration; treatment of participants in the judicial system; criminal and civil law; and family law. These areas are further subdivided to address a broad range of issues which are summarized below under each of the four major subject areas.

COURT ADMINISTRATION

The District of Columbia Courts are subject to a variety of statutes prohibiting gender discrimination. The Courts' own personnel policies proscribe discrimination in employment on account of sex and express an institutional commitment to equal employment opportunity. These policies also state a commitment to "promot[ing] the full realization of equal employment opportunity by establishing and maintaining an affirmative action program with respect to personnel policies and practices in the employment, development, advancement, and treatment of employees." The Task Force attempted to determine the extent to which these policies and goals have been fulfilled with respect to gender. To this end, the Task Force examined the effects of personnel practices on court employees. The Task Force also attempted to assess the success women attorneys have had in achieving judicial office and the success women judges have had in obtaining positions of administrative responsibility.

The Task Force concluded that the most serious problems confronting court administrators are: (1) the relatively small number of women, particularly Black women, in upper salaried positions in the Superior Court and Court System; (2) indications that the courts may be under-utilizing the educational training of some of its women employees; and (3) indications that the D.C. Courts' mechanism for resolving complaints of sex discrimination needs to be publicized and strengthened.

The information upon which the Task Force relied for its findings, conclusions and recommendations consists of: (1) responses to a 41-question survey distributed to all employees and judicial officers; (2) comments of participants at a workshop of the Joint Task Force Conference, which addressed the question of sex discrimination in employment at the courts; (3)

workforce profiles of the District of Columbia Courts which are submitted annually to the District of Columbia Human Rights Office; (4) summaries of complaints provided by the District of Columbia Court's EEO office; (5) a textual review of the District of Columbia Courts' Personnel Policies and Procedures Manual; (6) information supplied by the District of Columbia Judicial Nominating Commission and the Committee on the Selection and Tenure of Hearing Commissioners; and (7) information supplied by the Superior Court regarding the assignment of associate judges of that court to positions of administrative responsibility. As a result of our studies the Task Force reached the conclusions and recommendations which appear in the Report and are summarized below.

1. Women employees, and especially Black women, are under-represented in the highest grade levels of the Superior Court/Court System as well as in the level of positions which form an important applicant pool for promotion to upper level positions.

2. Women are not under-represented in the highest grade levels of the District of Columbia Court of Appeals.

3. The number of women hired in recent years in professional and court administration positions signals an effort to move women into higher level positions.

4. While parity between the genders based on their proportional representation in the workforce is not essential, lack of parity over a period of time is a matter which should be addressed.

5. The Task Force recommends that the Joint Committee closely monitor promotions and appointments to vacancies and that the Executive Office, with the assistance of the EEO office, collect and maintain information concerning vacancies and the applicants for those vacancies, with periodic reports to the Joint Committee.

6. The Task Force recommends that the District of Columbia Courts develop an affirmative action program which includes specific efforts designed to address grade levels in which women, and in particular Black women, are under-represented.

7. The Task Force recommends that the Joint Committee on Judicial Administration review the Family Leave Policy to determine the feasibility of having its provisions explicitly state that, where appropriate, the employees of the District of Columbia Courts are entitled to the leave which is authorized by the District of Columbia Family and Medical Leave Act of 1990.

8. The perception that gender-based discrimination occurs exceeds the evidence reported. However, the extent and nature of any discrimination and the effectiveness of the mechanisms for resolving complaints is made more difficult

by lack of official definition of terms used by the EEO Office, such as "no reasonable cause to proceed" and "inquiry".

a. The District of Columbia Courts should ensure that its employees are aware of the existence and role of the EEO office, and the office should be strengthened. The Joint Committee on Judicial Administration should encourage the use of the EEO office by any employee who believes he or she has been subject to gender bias.

b. The Task Force recommends that the Joint Committee on Judicial Administration review terms used in the EEO process such as "no reasonable cause" and "inquiry" to determine if such terms should be defined in the Personnel Policy.

9. The Task Force recommends the development of a procedure for the collection and maintenance of statistical data regarding complaints of gender-based discrimination made to such agencies as the Commission on Judicial Disabilities and Tenure, Bar Counsel, and the Chief Judge of the Superior Court regarding Hearing Commissioners. The Task Force further recommends that such statistical data be preserved and made available for public scrutiny.

10. The District of Columbia Courts should further develop and conduct training and educational programs for its employees on issues relating to gender discrimination in the workplace.

11. The Task Force recommends that women judges have the opportunity to serve as presiding and deputy presiding judges in all divisions of the court. The Task Force also recommends that women judges continue to have the opportunity to serve on those committees which members of the judiciary consider most important.

TREATMENT OF PARTICIPANTS IN THE SYSTEM

The Task Force studied behavior in the court setting, to determine if participants were being treated in a stereotypical fashion regardless of their individual situation, and whether men and women are treated differently when gender should not matter. Included in the kinds of behavior studied were both verbal and non-verbal behavior, as well as such judicial decisions as appointment of attorneys to criminal and probate cases. Judges, commissioners, attorneys, litigants, and witnesses were included in the study.

The Task Force conducted a survey of attorneys, courtroom personnel, and judges and commissioners to elicit opinions about behavior and the stereotypes underlying the respondents' observations. In addition, it conducted a roundtable discussion at the Joint Task Forces' Conference in June 1991, and utilized information gathered by the committee on Civil and Criminal Law. For court appointments, the Task Force interviewed the Register of Wills and

conducted a statistical study of court appointments in criminal cases for a three month period in 1990.

The Task Force found that, in general, the District of Columbia Courts do not suffer from the kind of blatant or systemic behavior that results in bias against members of one gender, usually women. However, the D. C. Courts are not free from bias. The Task Force surveys revealed perceptions of behavior that the Task Force concludes can have an adverse impact on the ability of female attorneys to represent their clients, and on the ability of female witnesses and litigants to be heard fairly. In addition, experiences showing lack of sensitivity and bias against female attorneys or litigants in particular have been related to the Task Force.

Most, if not all, task forces on gender bias have examined the issue of what is appropriate behavior for professionals in the court setting. This task force is no exception. Behavior that appears innocent or even complimentary can have an adverse impact on litigants and professionals. The Task Force tested a number of hypotheses in this area and found that unprofessional, gender-based behavior occurs in our court system according to a substantial proportion of survey respondents.

There was general consensus in the focus groups on personal injury cases, employment discrimination cases, and criminal cases that overt sexism is not commonly experienced by attorneys in the District of Columbia Courts. The use of demeaning stereotypes in litigation was viewed generally as not very successful in this court system. Problems that were reported appeared to be more judge-specific than systemic.

The system for appointment of counsel in criminal cases does not appear to discriminate against female attorneys. The statistical study conducted by the Task Force indicated that women are appointed to major felony and felony cases in proportion to their representation in the pool of Criminal Justice Act attorneys.

The Task Force arrived at the following conclusions:

1. Gender bias exists in the D. C. Courts, but does not appear to be pervasive.

2. There are differences in the way men and women perceive treatment of women, with men consistently perceiving fewer differences than women.

3. The types of problems in courtroom conduct perceived by practitioners tend to be subtle rather than overt. Some examples include that:

    a. judges tend to assume that male attorneys are lead counsel in multi-attorney cases;

    b. judicial officers appear to interrupt female attorneys more than male attorneys during argument;

c. female attorneys and judicial officers are treated less professionally than males, for example by having comments directed at their appearance;

d. female witnesses may be asked to "speak up" although they are speaking in a normal voice.

4. There appears to be a general decline in the civility with which attorneys treat each other, as well as the way in which female attorneys are treated.

The Task Force makes the following recommendations:

1. The Joint Committee should issue a clear statement that eradication of gender bias within the court system must begin with the members of the bench.

2. The Courts should adopt a Court Rule on professional conduct of attorneys. Such a rule is necessary to ensure equal justice under law regardless of race, gender or economic status.

3. Judges should take responsibility for ensuring that conduct in their courtrooms is free of inappropriate external influences such as gender bias, and not place the entire burden on the person affected to object to the conduct.

4. The Courts should continue current judicial training programs that incorporate gender bias issues, and an educational program for judges and commissioners about the subtle issues reflecting gender bias in the courtroom should be conducted.

5. The Task Force encourages use of Judicial Tenure Commission for complaints about particular judges.

6. The D. C. Bar should develop training and educational programs incorporating sensitivity to the gender issues raised in this Report.

7. The law schools in the metropolitan Washington area should be encouraged to incorporate gender bias issues in their curricula.

8. The Task Force recommends that a statistical study be conducted of appointments of attorneys in Probate cases.

CIVIL AND CRIMINAL LAW

The Task Force examined specific areas in civil and criminal law to determine if there is gender bias in the formulation or application of these areas of the law. The Task Force found that gender bias is not widespread in the litigation of civil and criminal cases in the District of Columbia Courts. Rather, the District of Columbia is considered to be a progressive jurisdiction

by those who practice here. Appellate decisions in key areas reflect a gender neutrality. At the trial level, it appears that most judges do not tolerate overtly gender biased behavior.

In the area of criminal law, the Task Force examined whether men and women are treated differently based on their gender in sentencing, adult sexual assault cases, and "domestic" assaults. In the area of civil law, the Task Force studied issues in personal injury litigation, and employment discrimination and sexual harassment cases. In addition, the Task Force examined the current Civil and Criminal Jury Instructions for gender bias in language.

The Task Force found that gender bias is not widespread in the litigation of civil and criminal cases in the District of Columbia Court of Appeals and Superior Court. However, the system is not free from problems. The broader issues of sexual stereotyping in the culture at large affect the judicial process.

Areas for improvement in the Courts include the following:

- Both the Civil and Criminal Jury Instructions require extensive revision to remove gender-based language.

- There appear to be differences in the way cases involving rape by acquaintances are treated in comparison with cases involving rape by strangers, and in areas such as bail and sentencing in particular, the courts appear to consistently treat acquaintance rape as a less serious offense than other similar offenses.

- Similarly, it appears that there are differences in bail setting, and sentencing which result in lower bail and shorter sentences in cases involving domestic violence than in other cases of similar severity;

- In wrongful death cases, it appears that awards in cases involving male children are higher than in cases involving female children.

- In personal injury cases, other factors being equal, males appear to receive higher awards for loss of future earning capacity than females, while females appear to receive higher awards for disfigurement than males.

- In cases involving damages, most survey respondents with an opinion stated that homemakers rarely or never recover the economic value of their lost services.

Based on its examination of the various issues, the Task Force made the following conclusions and recommendations:

Criminal Law

A. Youth Rehabilitation Act

1. The Task Force recommends that implementation of the consent decree in Hauser v. District of Columbia, CA 89-11625 (D.C. Sup. Ct. 1992), be monitored to assure that:

   a. Facilities and programs are provided pursuant to the Youth Rehabilitation Act for female defendants to ensure that treatment and rehabilitation opportunities are available for women under the Act.

   b. Judges and attorneys are informed of the available programs and facilities which are to be developed for women sentenced under the Youth Rehabilitation Act.

B. Adult Sentencing

The Task Force recommends that the Courts seek funds from outside organizations such as the National Center for State Courts or local Bar Associations to conduct a comprehensive statistical study of sentencing of male and female defendants. The study should determine and evaluate all variables used by the Court in setting sentences and the role, if any, that gender plays in sentencing decisions.

C. Rape and Sexual Assault

1. The District of Columbia Courts are among the most progressive in the way they handle rape cases in general, and "stranger rape" cases in particular. Rape victims are not singled out by case law or judges as less credible than victims of other crimes. Judges make an effort to protect the complainant from hostile or inappropriate questioning and to treat defendants in sexual assault cases similarly to defendants in other assault cases.

   The Task Force encourages the Courts to continue with this approach.

2. Although rape cases are heard on the major felony calendar, which accords them some priority, continuing efforts should be made to expedite these cases. The Task Force recommends that the Superior Court, through its Criminal Division, examine ways to speed up the trial dates for sexual assault cases, recognizing the constraints that resources place on the court.

3. There were some complaints by victims' representatives concerning the way both the Metropolitan Police Department and the U.S. Attorney's Office respond to rape victims.

The Task Force encourages these agencies to continue to review their policies and procedures in addition to the steps that have already been taken in response to this concern.

4. The language of the rape, carnal knowledge and seduction statutes are gender specific, and this leads to gender bias in application. The statutes should be made gender-neutral whenever appropriate.

5. There were complaints that the present carnal knowledge statute (statutory rape) can be applied unfairly to young men. The statutory scheme should be reviewed, and consideration given to requiring some minimum age differential between complainants and respondents. Reform in this area falls within the sphere of the legislature.

6. There is some basis to conclude that prosecutors, defense attorneys, jurors and judges treat "acquaintance rape" differently than they do "stranger rape". The Task Force is unable to conclude whether these differences are attributable to legitimate factual variables or to a bias against female victims based on gender.

Because the differences, (e.g., in sentencing and setting of bail) were so clearly reported in the survey, the Task Force recommends the Courts and Bar study "acquaintance" rape issues, for example through the use of workshops or seminars.

D. Domestic Violence

The Court should investigate:

1. the apparent high rate of dismissal of cases involving domestic violence;

2. the perception that bail in cases involving domestic violence is set at lower amounts than in other cases of similar severity; and

3. the perception that sentences in cases involving domestic violence are lower than in other types of cases of similar severity.

There should be monitoring and investigation into how prosecutors, defense attorneys, judges, juries and court personnel handle the increased numbers of domestic violence cases that are entering the criminal court system under the new mandatory arrest legislation.

E. Criminal Jury Instructions

Extensive revisions of the instructions are recommended. Either language should be gender neutral, or refer to the actual gender of the individual witness, expert, attorney,

defendant, plaintiff, etc. Use of "male" terms to include "female" terms should be avoided, because the effect, whether intended or not, is exclusive, not inclusive.

Civil Law

A. Personal Injury Litigation

The Courts should adopt a jury instruction on "homemaker worth" to aid a plaintiff/victim/decedent who did not work outside of the home at the time of injury or death. This instruction should encompass such matters as the present value of services (cooking, cleaning, etc.), and such factors as costs the family incurs as a result of the loss (e.g., paid maid services; difference in value if the spouse must work only part-time; additional cost of transporting children; etc.).

B. Sexual Harassment and Employment Discrimination Litigation

1. The District of Columbia Courts and Bar should explore adopting rules of civility between lawyers as has been done in Illinois and Texas.

2. The Courts and Bar should consider the pros and cons of revising the law on sexual harassment to define certain acts or conduct as sexual harassment per se, rather than relying on the vague and possibly inaccurately phrased "reasonable person" standard.

3. An empirical study should be conducted to determine whether mental examinations under Rule 35 of the Federal and Local Rules of Civil Procedure are ordered more frequently for female plaintiffs than for male plaintiffs and under what circumstances. The data should be published.

4. The reports of the District of Columbia Department of Human Rights on sexual harassment and employment discrimination should be made available to the public, so that the Courts, the Bar, and the community have a better sense of the scope of the problem of sexual harassment and sex discrimination in employment in the District.

C. Civil Jury Instructions

Extensive revision of the instructions is recommended. Either language should be gender neutral, or refer to the actual gender of the individual witness, expert, attorney, defendant, plaintiff, etc. Use of "male" terms to include "female" terms should be avoided because the effect, whether intended or not, is exclusive, not inclusive.

FAMILY LAW

The Task Force considered two areas of family law extensively: (1) domestic violence and (2) child abuse and neglect. Domestic violence was consistently cited by attorneys

throughout the information-gathering process of the Task Force as the most important area to study. The Task Force found that child abuse and neglect generally have not been considered by gender bias task forces, which have typically focused on financial issues affecting middle and upper income families. The Task Force concluded that in a number of respects, the court system operates in a gender-neutral manner. The Task Force also identified a number of problems, which are described in part in this summary.

The District of Columbia was one of the earliest jurisdictions to enact legislation to address the problems of domestic violence, and has one of the most progressive statutes in terms of relief available in civil protection orders (CPOs). D.C. Code §§16-1001-1004 (1989). The Task Force conducted a statistical examination of all CPO cases filed in intrafamily court in 1989 by examining the court jackets to to obtain data on the nature of and results in those cases. The most significant findings of the Task Force are that: (1) the court is not routinely awarding custody and visitation in cases where there are children; and (2) the court rarely awards child support in these cases.

In its study of abuse and neglect cases, the Task Force found that judges are widely perceived to use stereotypical views of mothers and fathers when making decisions. In the opinion of many child abuse and neglect lawyers, judges view mothers as the crucial parent figure and, as a result, more is expected from them. Judges are perceived to be more critical of mothers who are viewed as deficient than they are of fathers. Fathers are seen as marginal figures not entitled to substantial blame or credit.

The Task Force also studied whether there is gender bias in the implementation of general domestic relations law, including property division, custody and support laws. Among the areas studied, the Task Force examined how well the courts are enforcing payment of alimony awards, and concluded that the courts are perceived to be deficient in enforcing the awards. Court rules and procedures should be improved because the survey revealed that respondent attorneys have little confidence that current procedures lead to prompt enforcement. Moreover, there is little belief that judges impose appropriate civil penalties for noncompliance with court orders concerning alimony. One of the strongest criticisms of judges was for their failure to impose jail sentences against respondents who deliberately fail to abide by court orders for payment of alimony.

The Task Force found that many domestic relations lawyers believe that judges in the District of Columbia more often than not view mothers as more fit to have custody than fathers, regardless of whether women are working or not. Only women who place great emphasis on their careers are seen to be disadvantaged over men in similar situations.

To address the problems found, the Task Force made numerous recommendations, which are listed below.

1. Domestic Violence

General

1. The Chief Judge of Superior Court should create a Domestic Relations Procedure Task Force similar to the Civil Delay Reduction Task Force to include judicial officers, court administrators, and members of the domestic relations and domestic violence bars, with a mandate including, but not limited to, the following:

   a. implementation of the recommendations made in this report;

   b. consideration of the recommendations for handling intrafamily cases in the reports of the National Institute of Justice and the National Council of Juvenile and Family Court Judges, giving particular attention to recommendations regarding enforcement of CPOs; the interrelationship between CPO enforcement and criminal proceedings; the content of CPO orders; and concerns about the physical plant;

   c. development of effective court procedures for filing and issuance of TPOs; and

   d. development of calendaring policies that allow for full and effective use of court time for custody, support and visitation issues.

2. The Task Force recommends that training for judges entering Intrafamily Court include the causes and effect of domestic violence; the impact of violence on children; and the importance of addressing issues of support, custody and visitation on the success of civil protection orders.

3. Court support staff and marshals should be provided training on domestic violence issues to the extent necessary to provide courtroom security and to assist parties and witnesses in such cases.

4. Judges should stress to the litigants the importance of these cases generally and personally address each respondent who will be subject to a CPO. The judge should emphasize the mandatory nature of the court's order and the penalties, including incarceration, for violation of the CPO.

5. The Court and the Bar should develop materials, including written explanatory material, videotapes and court forms, to be made available to pro se litigants in advance of hearings.

Representation and Pro Se Litigation

1. Because many parties appear pro se, time should be allotted at the opening of CPO court for an explanation of the proceedings generally, and the court should ascertain the nature of all claims and defenses. Appropriate action should be taken to ascertain whether counsel is desired or required. All issues presented, including custody, visitation and support, should be resolved.

2. Where petitioner seeks sanctions for criminal contempt, the court should consider appointment of Corporation Counsel to represent petitioners pursuant to SCR Intrafamily Rule 12(c)(2).

3. Representation of petitioners by members of the private bar, particularly in CPO trials, should be encouraged, and funding should be sought to compensate attorneys for services rendered.

4. The findings of this Task Force should be made available to the D.C. Bar Task Force on Representation in Domestic Relations Cases, and the Bar should also provide training programs on issues arising under the CPO statute.

Child Custody and Visitation

1. Child custody and visitation issues should be addressed and resolved when the parties have a child in common.

2. The safety of the children should be considered in custody and visitation determinations in all family violence cases, with consideration given to the ramifications that shared custody might have in a volatile situation. Petitioner's safety and the welfare of the children should be the subject of inquiry, careful consideration, factual findings, and an order for custody and/or visitation consistent with the welfare of the children and the safety of all affected parties.

3. Judges should decide all issues properly raised by the parties, including custody, visitation and support. If issues appear to be lengthy or complex, procedures should be developed to permit certification of the case for hearing on an expedited basis.

4. Since it appears that one of the most frequent causes for contempt is violation of visitation orders, the need for particularized orders should be considered.

Child Support

1. Child support issues should be considered and resolved as allowed by law in CPO cases where the parties have a child in common and custody is ordered.

2. Child support forms should be published by the court and made readily available for use in all cases in which child support is involved.

3. Child support orders should be calculated under the D.C. Child Support Guideline and should be written on court child support forms.

Temporary Protection Orders

1. Procedures for obtaining TPOs should be simplified, and personnel involved in providing access to the Courts should be trained in the procedures. This should be a priority of the proposed Domestic Relations Procedure Task Force.

2. Procedures should be developed to allow petitioners to prepare the necessary court documents while at the Citizen's Complaint Center.

3. Personnel in the Mayor's Command Center should be trained in how to process applications for emergency orders, in particular from pro se petitioners.

Contempt

1. The Court and the D.C. Bar should address the need to provide attorneys for petitioners in contempt proceedings. Although Superior Court Intrafamily Rule 12(c)(2) provides that the court may request Corporation Counsel to represent petitioner, the availability of more attorneys appears to be required to assure prompt and complete presentation of the cases.

2. Meaningful sanctions must be imposed for contempt, with consideration given to the need for more severe sanctions in cases of multiple counts of contempt or subsequent contempts.

3. Supervised probation should be considered in contempt cases involving CPOs.

4. The court should develop procedures for handling violations of CPOs reported by probation officers or the police, similar to the procedures used for violation of probation orders in other criminal cases.

Physical Plant

1. A permanent courtroom for intrafamily cases should be designated. The courtroom should have lock-up facilities and be large enough for petitioners and respondents to sit separately.

2. Notices of hearings should clearly state the courtroom to which the parties are to report. The courtroom should be open at the designated time, and a deputy U.S. Marshal should be present when the court opens.

3. Adequate attention must be given to security issues such as:

   - separating the parties before court through individual waiting areas, and during court by seating arrangements;
   - stationing deputy marshals in the courtroom and halls;
   - allowing petitioners to leave in advance of respondents.

Other Recommendations

1. Extensions: The Task Force recommends that the Council of the District of Columbia consider amending the Intrafamily Violence statute to provide that CPOs remain in effect for at least 3 years and that the provisions for child custody, support and visitation remain in effect until further order of the court (without specific end date).

2. Defaults: If the respondent is served and fails to appear for the CPO hearing, and the petitioner is present and ready to proceed, the Task Force recommends that the hearing proceed, rather than requiring the petitioner to return for a future hearing. Consideration should be given to any rule change necessary to implement this recommendation. The Court should order the Metropolitan Police Department to serve the orders where service of the default CPO may prove a problem.

3. Failure To Appear cases

   a. The Task Force recommends that the procedures currently in effect to notify petitioner or her attorney before and after bench warrant hearings be improved.

   b. The Domestic Relations Procedure Task Force, if established, should develop a proposal for a statutory amendment or rule change which would permit imposition of appropriate conditions of release.

4. Continuances: Where continuances are granted prior to the hearing on the CPO, the Task Force recommends that a TPO be issued effective until the hearing date.

5. Findings of fact: Because CPO cases tend to be on-going, and judges do not retain jurisdiction of the cases they have heard upon transfer to a different assignment, the Task Force recommends that judges state findings of fact on the record following trial in CPO matters, and that the Intrafamily Rules Subcommittee develop a mechanism for including written findings of fact in the court jacket. In addition, the Task Force recommends that judges retain cases where they have heard contempt motions for further enforcement proceedings, and procedures to effectuate this policy should be developed.

6. Dismissals

   a. Voluntary: The Task Force recommends that where possible the inquiry suggested by the Intrafamily Rules into the basis for petitioner's request to dismiss be conducted outside the hearing of the respondent.

   b. Dismissal by court: Since CPO court is generally a pro se court, the Task Force recommends that the court develop procedures to avoid automatic dismissal where the petitioner has not appeared. The Task Force recommends that the case be placed on an inactive docket and that petitioner be notified of the procedure required to reactivate the case.

2. Child Abuse and Neglect

1. Training programs for judges assigned to Family Division should include child development; parenting (including the importance of a primary care-giver regardless of gender); the dynamics of family violence; and the avoidance of stereotypical thinking. Presentations should be made by child psychologists, pediatricians, and social scientists.

2. Consistent with practicality and the nature of the adversary system, more attention must be paid to fathers. First, in a positive sense, efforts should be made to foster the father/child relationship and to encourage fathers to play an active role in their children's upbringing. Second, when a father has not provided proper parental care and support, this should be the focus of judicial attention in the same way as improper maternal care.

3. Social workers, police officers, prosecutors, and CCAN attorneys must be re-trained to focus on the father's conduct and behavior in a manner similar to the emphasis placed on the mother's conduct.

4. Judges need to increase their awareness that they are perceived to hold stereotypical views that affect their decisions, and consciously work to avoid decision-making based on assumptions about differences in the way mothers and fathers should behave. Hopefully, contemplation of the survey results should begin this process.

3. Domestic Relations

General

1. In all areas of domestic relations practice, the family law bar perceives that insufficient attention is paid to the problem of enabling the economically disadvantaged spouse to maintain a fair standard of living pending resolution of the marital disputes, to pursue effectively the lawsuit, and to preserve assets pending equitable distribution.

   The Task Force recommends that the court find methods to assure that greater attention is given to the pre-trial aspects of domestic relations practice including pendente lite relief, pre-trial preservation of assets, discovery, and enforcement of pre-trial orders.

2. The Task Force recommends that Family Division rules, administrative procedures, and calendaring practices be revised to ensure easy pre-trial and emergency access to the court making this relief available to all litigants regardless of socio-economic status.

3. Implementation of the recommendations regarding domestic relations litigation as set forth in the section on divorce, custody and support (e.g., restraining orders, pendente lite alimony, attorney fees, etc.) should be made part of the mandate of the Domestic Relations Procedure Task Force, the creation of which is recommended in the section on Domestic Violence.

4. Since there is widespread perception among the family bar that the court does not rigorously insist on compliance with domestic relations orders, judges and commissioners should take the lead in insuring that their orders are obeyed.

Property Distribution

1. The information provided the Task Forces seems to indicate that the District of Columbia courts have not yet routinely addressed issues of property division that fully reflect the parties' investment during the marriage in "career assets" and "earning potential." Judicial education and attorney education programs should cover the valuation and division of "career assets" and "earning potential" as a part of the distribution of

marital assets. Examination of studies and scholarly commentary on the economic consequences of divorce, women's employment opportunities and income potential would make the application of these concepts more understandable by courts and counsel alike.

2. Efforts should be made to address the long term impact of any property division to assure that each party retains some liquid and income producing assets after divorce.

3. Judges appear to take into account the contribution of the homemaker spouse in the creation and preservation of marital assets.

4. The trial and appellate courts recognize the contribution of homemakers to the separate assets of the other spouse by authorizing award to the homemaker spouse of an equitable interest in the separate property. Continued development of these concepts should be encouraged through judicial and attorney education programs.

5. Attorney's fees awarded pendente lite are essential to enable the economically dependent spouse to pursue the divorce action. Appropriate consideration is not seen to have been given to the financial ability of the economically disadvantaged spouse to pursue the litigation. This is particularly troubling because of the adversary nature of divorce litigation.

6. Judges should assure that any contribution toward attorneys' fees that the economically dependent spouse is required to make from her distributed assets does not leave her in an inequitable economic position afterward in relation to her spouse's economic position.

7. Orders to uncover the existence of assets and orders to prevent dissipation of assets are reported to be enforced badly or not at all. This forms part of a pervasive perception of poor enforcement of domestic relations orders.

8. The Task Force recommends that further study be made to examine whether gender bias exists in the division of property where marital fault is an issue; whether debts of the parties are distributed in an equitable fashion (for example, do courts award the husband the bulk of the income-producing property and the wife the home, which is mortgaged and usually the majority of the marital debt); and whether other long-term consequences of property division are taken into account.

Alimony

1. The Task Force recommends that judicial training include full consideration of the practical realities of the dissolution of long-term

marriages including the earning potential of displaced homemakers and the impact of marital dissolution on the parties' standard of living.

1. Pendente lite: During the critical and sometimes lengthy pre-trial period, the court is seen as failing to ensure consistently that the poorer spouse receives temporary support.

2. Permanent awards: Alimony awards for long-term homemakers are perceived to be inadequate and to fail to equalize the standard of living of divorcing spouses.

3. Enforcement: In general, there is a belief among domestic relations lawyers that there is inadequate enforcement of alimony awards.

Child Custody

1. Gender based stereotypes are seen by attorneys to influence child custody determinations, and this adversely affects both men and women. Mothers are viewed as held to a higher standard of behavior, and fathers are seen as not being taken seriously. This is the same phenomenon observed in the child abuse and neglect study. The Task Force recommends the same steps set forth in that section of this report.

2. Domestic violence should be given appropriate consideration in all custody decisions where issues of family violence are raised.

3. The Task Force recommends that the courts address the current practice which prohibits a party from seeking custody or child support while the parties are living together.

4. Child custody procedures should allow for an early determination of pendente lite custody in the same manner that they provide for early determination of child support.

Child Support

1. Child Support Awards: The Task Force recommends that judges of the Superior Court and Court of Appeals and commissioners give careful consideration to the manner in which the child support guideline is applied in order to strike a balance between consistency and flexibility. Judicial officers should make specific findings on the record justifying deviations from the median guideline.

2. Child Support Enforcement: The court should accord child support enforcement high priority and make sure that all the available enforcement mechanisms, including award of interest on arrears, prompt wage

withholding, and incarceration, are being utilized. The Clerk's office needs to accord child support enforcement a similar high priority in its staffing and administrative procedures.

CONCLUSION

To fully comprehend the method by which the Task Forces sought to determine the presence and nature of biases within the courts and the conclusions and recommendations summarized here, it is important to review the full report. It is the hope of the members of the Task Forces that this report will aid the District of Columbia Courts in its efforts to eliminate gender, racial and ethnic bias from the Courts. The Task Forces look forward to the implementation of the recommendations made.

TITLE IV—EQUAL JUSTICE FOR WOMEN IN THE COURTS

Subtitle A—Education and Training for Judge and Court Personnel in State Courts

SEC. 401. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by gender.

SEC. 402. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims or rape, sexual assault, domestic violence, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the negative implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the

batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant and should not be held in contempt;

(18) the need for orders of protection, and the negative implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases; and

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

SEC. 403. COOPERATION IN DEVELOPING PROGRAMS.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1994, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State

Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 411. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation, parole, and supervised release;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters;

(11) the admissibility of past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 402 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial Branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, shall—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $600,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 411(a), to be available until expended through fiscal year 1996;

(2) $100,000 to the Federal Judicial Center to carry out section 411(c) and any activities designated by the Judicial Conference under section 411(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 411(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $100,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

Subtitle C—Evidentiary Rules

SEC. 421. EXPERT TESTIMONY OF DOMESTIC VIOLENCE.

(a) FINDINGS.—The Congress finds that—

(1) State criminal courts often fail to admit expert testimony offered by a defendant concerning the nature and effect of physical, sexual, and mental abuse to assist the trier of fact in assessing the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) the average juror often has little understanding of the nature and effect of domestic violence on such a defendant's behavior, beliefs, or perceptions, and the lack of understanding can result in the juror blaming the woman for her victimization;

(3) the average juror is often unaware that victims of domestic violence are frequently in greater danger of violence after they terminate or attempt to terminate domestic relationships with their abuser;

(4) myths, misconceptions, and victim-blaming attitudes are often held not only by the average lay person but also by many in the criminal justice system, insofar as the criminal justice system traditionally has failed to protect women from violence at the hands of men;

(5) specialized knowledge of the nature and effect of domestic violence is sufficiently established to have gained the general acceptance which is required for the admissibility of expert testimony;

(6) although both men and women can be victims of physical, sexual, and mental abuse by their partners in domestic relationships, the most frequent victims are women; and

(7) a woman is more likely to be assaulted and injured, raped, or killed by her current or former male partner than by any other type of assailant, and over one-half of all women murdered are killed by their current or former male partners.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the executive branch, working through the State Justice Institute, should examine programs which would allow the States to consider—

(1) that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, be admissible when offered in a State court by a defendant in a criminal case to assist the trier of fact in understanding the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) that a witness be qualified to testify as an expert witness based upon her or his knowledge, skill, experience, training, or education, and be permitted to testify in the form of an opinion or otherwise; and

(3) that expert testimony about a domestic relationship be admissible to include testimony of relationships between spouses, former spouses, cohabitants, former cohabitants, partners or former partners, and between persons who are in, or have been in, a dating, courtship, or intimate relationship.

Passed the House of Representatives November 20, 1993.

Attest: DONNALD K. ANDERSON,

Clerk.

APPENDIX II

Superior Court of the District of Columbia
Multi-Door Dispute Resolution Division

Alternative Dispute Resolution Programs

1993

Melinda Ostermeyer, Director

District of Columbia Superior Court•Multi-Door Dispute Resolution Division
500 Indiana Ave., N.W.•Washington, DC 20001•202-879-1478

HISTORY

During a presentation at the 1976 Pound Conference about public dissatisfaction with the justice system, Harvard Professor Frank E.A. Sander offered an innovative approach that could ease the growing demands on courts throughout the country. Calling his concept the *multi-door courthouse*, Professor Sander envisioned one large courthouse with multiple dispute resolution *doors* or programs. Cases could be diagnosed and referred through the appropriate door. The programs could be located inside or outside of the courthouse, and could include, but would not be limited to, litigation, conciliation, mediation, arbitration, and social and governmental services.

After a careful study of the multi-door concept, the American Bar Association's Standing Committee on Dispute Resolution identified three experimental program sites: Tulsa, Oklahoma; Houston, Texas; and the Superior Court in Washington, D. C. . The American Bar Association hoped to determine if the multi-door concept would improve the administration of justice. The goals of the multi-door experiment were to provide easy access to justice, to establish networks that would reduce or eliminate citizen frustration, and to develop and improve programs to fill service gaps, thereby making available more *doors* through which disputes could be resolved.

The experimental program in the D.C. Superior Court was established in 1985. Four years later, in February 1989, Chief Judge Fred B. Ugast declared the experiment a success and designated the program as a full operating Division of the Court.

In 1985, the Intake and Referral Center was the first multi-door program established in the Superior Court. Trained staff and volunteers are available through this program to assist residents of the District of Columbia metropolitan area to consider options for resolution of their disputes. If the Intake Specialist is unable to conciliate the dispute, the citizen will be referred to an appropriate legal, social service or dispute resolution organization.

In the same year, the small claims mediation program became the first of the multiple *doors*. Daily, volunteers are available in the Small Claims Court to help parties reach a mutually satisfactory solution to disputed claims under $2,000. Additionally, in 1991 small claims mediators began to mediate collection cases with claims of $25,000 or less. Approximately 50% of the cases entering mediation are resolved with the help of a neutral third party.

The domestic relations mediation program began operation late in 1985. Initially, cases entering domestic relations mediation came to the program on a voluntary basis and involved issues of child support, custody, visitation, spousal support and property division. Mediation continues to be available prior to filing a formal complaint in Court, or at anytime after filing a complaint, even on the day of trial or at the hearing. Tax and pension issues are also mediated by specially trained domestic relations mediators. Cases ineligible for mediation are those involving the use of weapons, serious injury by one party to the other, a long history of repetitive violence, child abuse, or a lack of parity in bargaining power between the parties.

Court-annexed, non-binding arbitration was initiated in 1987 through a grant from the National Institute for Dispute Resolution and the Meyer Foundation. Approximately 400 cases filed in the Civil Division were randomly assigned to arbitration during a two-phase experimental period between 1989 and 1991. The Court's Research and Development Division compared arbitrated cases with a control group of similar cases which were litigated. At that time, approximately 75% of the cases arbitrated were dismissed or otherwise disposed of within 120 days, as compared with 10% of the litigated cases. In addition, litigants surveyed responded favorably to the concept of court-ordered arbitration.

In a continuing effort to educate the legal community about ADR techniques and to reduce the number of the Court's oldest pending civil cases, another successful ADR experiment was initiated by the Court. For one week each year from 1987 through 1989, Chief Judge Fred B. Ugast ordered all civil trials suspended for the one week designated as Settlement Week.

During that time, trained judges and volunteer attorneys from local bar associations held mediated settlement conferences for approximately 700 to 900 of the oldest civil cases. Cases commonly mediated during Settlement Week included contracts and tort claims ranging in value from $469 to $1.8 billion; the largest category of cases were valued between $100,000 and $500,000. Between 43%-50% of cases ordered into settlement conferences settled.

The success of Settlement Week encouraged the Court to make mediation available to civil litigants year-round, including for the most complex cases. At the request of either party, the Court ordered all parties to participate in at least one mediation session. Fifty-three percent of these cases were resolved through mediation.

In late 1989, Chief Judge Ugast appointed a task force to plan and oversee the implementation of a comprehensive Civil Delay Reduction Program. The Court anticipated that this program would bring civil case processing in the Superior Court into compliance with the ABA's guidelines for timely disposition of civil cases. The Civil Delay Reduction Program includes the use of automated case processing, individual calendar assignments, differentiated case management, and incorporates it in the use of mediation, arbitration and neutral case evaluation in the civil case processing system.

To assist with the conversion to the Civil Delay Reduction Program, the Multi-Door Division mediated approximately 3,100 of the oldest civil cases between October 1989 and January 1991, and resolved approximately half of these cases. When the Civil Delay Reduction Program became operational in January of 1991, the Division made available mediation, neutral case evaluation, and binding and non-binding arbitration for most civil cases filed in the Court. The Division analyzes civil cases after they are filed to determine the most appropriate ADR technique. It is anticipated that annually approximately 5,500 civil cases will be referred to dispute resolution by the judge during the initial scheduling conference held between the judge and counsel. The initial scheduling conference is held 90-120 days from filing.

Furthermore, the presiding judge of the Probate Division refers probate and tax assessment matters to the Multi-Door Division. Civil mediators have helped to settle more than 70% of the cases referred.

In order to provide comprehensive ADR services, the Division has developed extensive training and educational programs for its over 600 volunteers. The Division has set in place numerous "quality control" mechanisms, such as user surveys, mentorships, and individual evaluations.

In addition, the Court's national reputation as having one of the most comprehensive court-based ADR programs is confirmed by the continuous requests from other states and other countries for technical assistance in establishing similar ADR programs.

The Present

Today, the Multi-Door Dispute Resolution Division maintains a staff of 19 full-time employees to administer its recruitment and training programs, intake and referral program, small claims mediation program, domestic relations mediation program, probate mediation program, tax assessment mediation program and civil case classification, mediation, arbitration and case evaluation programs. The Division provided citizens with a neutral forum to consider the settlement of their dispute in almost 7,400 cases in 1992. In addition, over one thousand citizens were assisted through the Division's intake and referral program.

Excerpt from TESTIMONY OF

D.C. SUPERIOR COURT CHIEF JUDGE FRED B. UGAST

Apr. 28, 1993, before the Subcommittee on the Judiciary and Education of the House Committee on the District of Columbia

H.R. 1631 - A BILL TO AMEND SMALL CLAIMS BRANCH JURISDICTION

In connection with our new Civil Delay Reduction Program and the use of commissioners to hear small claims cases with consent of the parties, the Board of Judges has approved an increase in the jurisdiction of the Small Claims Branch from $2,000 to $5,000. Increasing the Superior Court's small claims jurisdiction from $2,000 to $5,000 will permit 36% of our civil action cases to be heard in the Small Claims Branch. The majority of these would be collection cases. This will allow these cases to proceed on a fast track utilizing informal procedures. The jurisdictional amendments last changed in 1984.

WHAT TO EXPECT IN D.C. SMALL CLAIMS COURT

District of Columbia Courthouse
500 Indiana Avenue, N.W.
John Marshall Level
Washington, D.C. 20001

8:30 a.m. to 4:00 p.m.
(Monday - Friday)

9:00 a.m. to 12 Noon
(Saturday)

6:30 p.m. to 8:00 p.m.
(Wednesday Evenings)
879-1120

Superior Court of the District of Columbia

Fred B. Ugast
Chief Judge

WHAT IS SMALL CLAIMS COURT?

Small Claims Court is a place where you may go to try to recover claims of up to $2,000. A claim, generally speaking, asserts a legal right you may have. The Small Claims Court is an informal court that attempts to be quick, simple and inexpensive to use.

You may use the Small Claims Court to sue anyone who LIVES, WORKS, or DOES BUSINESS in the District of Columbia.

You may sue in Small Claims Court when you have an automobile accident in the District of Columbia—no matter where the other driver lives.

You may only try to recover money in Small Claims Court. If someone has damaged your property, you must sue for the cost of fixing or replacing it. You cannot sue to try to get property other than money returned to you.

You may want to try to resolve your dispute with the help of a mediator before you file a claim in court. Mediation for small claims disputes can be arranged through the Court's Multi-Door Dispute Resolution Program by coming to Room 1235 or by calling 879-1549 between 9:00 a.m. and 4:00 p.m., Monday through Friday. Mediation may save you time, money, and stress.

WHEN MAY I SUE IN SMALL CLAIMS COURT?

You may sue when you believe someone owes you money. For example, you MAY SUE IF:

—Someone fails to return a deposit to you;

—Goods and/or merchandise that you purchased is defective and the seller refuses to repair, refund or replace it;

—You have a loss due to an accident;

—Your property is damaged or destroyed by someone performing a service for you.

DO I NEED A LAWYER IN SMALL CLAIMS COURT?

Small Claims Court is an informal court and procedures are kept simple to permit you to use the Court without a lawyer. Sometimes cases can be complicated and a lawyer may be able to advise and help you. Plaintiff corporations are required to have a lawyer.

If you CANNOT AFFORD A LAWYER and request legal help, the judge may assign a lawyer or a law student to assist you. There are several independent agencies which may be able to help you.

D.C. Law Students in Court Program
419 Seventh Street, N.W., Suite 202
Washington, D.C. 20004
638-4798

Columbus Community Legal Services
1713 North Capitol Street, N.E.
Washington, D.C. 20002
526-5800

Legal Aid Society
666 Eleventh Street, N.W., Suite 300
Washington, D.C. 20001
628-1161

Neighborhood Legal Services
310 Sixth Street, N.W.
Washington, D.C. 20001
682-2700

If you do want legal assistance, it is best to REQUEST IT WELL IN ADVANCE OF THE HEARING DATE.

HOW DO I SUE IN SMALL CLAIMS COURT?

Go to the Superior Court Small Claims Court Clerk's Office at 500 Indiana Avenue, N.W., John Marshall Level, Room JM-260. PLEASE TAKE WITH YOU:

—The complete and proper legal name and address of the party you wish to sue. This party is called the "DEFENDANT." You will be the "PLAINTIFF."

If a business is being sued, call 727-7283 between 2 and 4 p.m., or visit the Department of Consumer and Regulatory Affairs, Corporate Records Section, at 614 H Street, N.W., to find out if the business is INCORPORATED or is using a "trade name" (NOT INCORPORATED).

If the business IS incorporated, ask the person in the Corporate Records Section office for the name and address of the REGISTERED AGENT for the corporation. That is the PARTY (PERSON) who will receive notice of the suit.

If the business IS NOT incorporated, you must find out the NAME OF THE OWNER of the business, NOT the name of the BUSINESS ITSELF. This information may be obtained by calling 727-7010 or 7077 or

going to the Business License Branch located at 614 H Street, N.W., 2nd Floor. Ask the clerk there for both the name and address of the owner of the business.

—If you are suing someone as a result of an automobile accident and you do not know the owner of the automobile, the tag number is helpful for determining the name and address of the owner. You may have to call the Bureau of Motor Vehicle Registration Office at 727-6681 or visit the D.C. Municipal Center, 301 C Street, N.W., Room 1157, to obtain the owner's name. If it IS NOT a District of Columbia car, you should contact that state's motor vehicle registration office for more detailed information.

—It is IMPORTANT that you bring a copy of any written evidence that may help you prove your claim in court such as:

- Contracts
- Repair Estimates (2 or more)
- Leases
- Letters/Written Records
- Receipts
- Promissory Notes
- Paid Bills
- Cancelled Checks

FILING YOUR CLAIM

1. The Clerk will give you a Statement of Claim Form. Be prepared to fill it out right then and there. Be prepared to provide the following information:

   —Your name, address, and telephone number where you can be reached during the day.

   —The correct name and address of the party you are suing. If it is a corporation, you will need its proper name and address and the registered agent's name and address.

   —A simple but COMPLETE statement of why you are suing. This should include:

   Dates and locations as they relate to your claim; and

   The amount of money you are trying to recover.

   Remember: The limit is $2,000, not including interest, costs and attorney's fees.

   ALWAYS ADD "PLUS COSTS AND INTEREST" TO THE AMOUNT YOU ARE SUING FOR. If you win the case, you MAY get this back.

2. Next, take your Statement of Claim to the cashier's window and pay a filing fee of $1.00, plus $2.29 for service of the claim by mail.

   This is the cost of filing the suit. The Court will notify the party by CERTIFIED MAIL that he/she is being sued or you may use a SPECIAL PROCESS SERVER (someone YOU HIRE for a fee to serve your claim, NOT THE CLERK).

   Both the plaintiff and the defendant are required to send each other copies of everything processed prior to the hearing date.

   If you CANNOT AFFORD to pay the filing fee, tell the Clerk that you would like to HAVE THE PREPAYMENT OF FEES WAIVED, and he/she will assist you.

3. The cashier will set a date for the hearing.

   You may usually choose a hearing date convenient for you by filing your claim two weeks before the day you want your hearing.

   You will be asked to call the Clerk's Office one (1) to two (2) days prior to the hearing date to determine whether a copy of your Statement of Claim has been served on the defendant.

WHAT IF SOMEONE SUES ME?

1. If you are being sued in Small Claims Court, you will receive a Statement of Claim against you notifying you of the hearing date.
2. DO NOT IGNORE the Statement of Claim. If it is IMPOSSIBLE for you to appear on the date scheduled for trial, notify the Clerk of the Small Claims Court, either in person or by telephone, and he/she will advise and assist you in requesting a new trial date.
3. YOU MUST call the Clerk if you cannot appear. DO NOT just fail to show up. IF YOU DO NOT CALL AND DO NOT SHOW UP, A JUDGMENT WILL MOST LIKELY BE ENTERED AGAINST YOU. This means you will lose without a chance to tell your side of the story and without the chance to arrange for monthly payment of a judgment against you.

4. DO NOT ASSUME that your case is HOPELESS. Even if you think you owe the money, you may have a legal defense. A lawyer or law student may be able to help you.
5. If you think you have your own claim against the party suing you, notify the Clerk that you want a COUNTERCLAIM FORM and ask him/her how to prepare this.
6. Call or visit the Court Clerk if you have any questions. THE CLERK'S JOB IS TO HELP YOU.

HOW DO I PREPARE FOR COURT?

1. Ask for WITNESSES, who saw what happened or HAVE KNOWLEDGE which might help your case, to arrive at Court on the hearing date.

   If a witness will not agree to appear, tell the Clerk you want to SUBPOENA him/her.

   If the subpoenas are to be issued to witnesses, you should call the Clerk's Office three to four days prior to the hearing date to allow the subpoenas to be served upon the witnesses. Service may be made by certified mail or special process server. Subpoena forms are available from the Clerk. There is a fee of $2.00 to the the Clerk and a witness fee of $40.00, plus transportation, for each witness subpoenaed.
2. Gather all the evidence that relates to your claim or your defense if you are being sued. This includes CONTRACTS, RECEIPTS, PROMISSORY NOTES, LETTERS, CANCELLED CHECKS or OTHER WRITTEN MATERIAL. BRING THIS EVIDENCE TO COURT WITH YOU.
3. GO OVER THE FACTS AND ORGANIZE THEM IN YOUR MIND. You may want to write down the most important facts, since you will need to give a clear statement of the facts in court.
4. Call the Clerk's Office one to two days prior to the hearing date to be sure your case is still scheduled. BE SURE the other party received notice of the hearing. If the defendant was not served with a copy of the Statement of Claim informing him/her of the hearing date, the case WILL NOT be heard on the scheduled date.

WHAT HAPPENS AT THE HEARINGS?

1. Arrive early and bring all court papers with you.

   If you are suing and you arrive after 9 a.m., or do not appear at all, your case may be DISMISSED.

   If you are being sued and arrive after 9 a.m., a judgment may be entered against you. In other words, YOU MAY LOSE WITHOUT A HEARING IF YOU ARE LATE.
2. The Courtroom Clerk calls all of the cases on the calendar to find out who is present.

   Please answer LOUDLY when your case is called. After the Clerk finishes the calendar call, you are asked to form a line at his/her desk for any questions that you might have.

   If you are SUING and the other party is not there, you must still show proof of your claim before you can get a judgment in your favor.

   If you are BEING SUED and the other party is not there, ask that the case against you be dismissed (so you will win the case).
3. SETTLEMENT—You and the other party may want to SETTLE THE CLAIM before court actually begins. This means that the two of you reach an agreement between you before the case is heard by the Judge. You may do this ON OR BEFORE your court date.

   Trained mediators are available each day that the court is in session to help you reach a settlement. Before your case goes to trial, the Courtroom Clerk will assign a mediator to meet with you and the other party. Any agreement you reach with the mediator's assistance will become part of the court record. Anything you discuss with the mediator will, however, remain confidential. If you are unable to settle your case with the help of a mediator, you may go on to trial.

   IF YOU ARE BEING SUED, your opponent or his/her lawyer will look for you or call your name after the Clerk finishes the roll call. BE SURE YOU KNOW WITH WHOM YOU ARE TALKING.

   IF YOU ARE SUING and want to settle, look for your opponent and talk with him/her about an agreement. If you want to settle, be ready to consider accepting a SMALLER AMOUNT than you are suing for IF THE AMOUNT IS REASONABLE. Settling a lawsuit is frequently the easiest way to save time and trouble.

If an agreement is reached in your case, a form called a "praecipe" will be given to you for setting forth the terms of the agreement.

Give the praecipe (agreement) to the Clerk and ask the Clerk if there is anything further that the Court must do with regard to the settlement.

4. THE HEARING—If you cannot or do not want to settle with the opposing party, you will have a hearing before the Judge.

   Tell the Clerk that you could not settle, and wait for your case to be called again. At that time say, "Ready for trial."

   If you are suing, you will have the first chance to present evidence and explain why you are suing. You have the responsibility of proving that the amount of money claimed is owed to you by the defendant.

   If you are the one being sued, you will have a chance to QUESTION your opponent and his/her witnesses (cross examination). THE PURPOSE OF YOUR QUESTIONS SHOULD BE TO SHOW THAT YOUR OPPONENT'S CASE DOES NOT "HOLD WATER." Then you will have a chance to tell your side, have your witnesses testify, and present evidence. The plaintiff may then ask questions of you and your witnesses.

5. After the Judge has heard all of the testimony, he/she will inform the parties of his/her decision as to which party has won the case and the amount of the judgment, if an amount of money is awarded. There are times when the Judge will not render a decision immediately after the trial; if so, you will be notified by mail.

IF I WIN, HOW DO I COLLECT MY MONEY?

1. Ask the Judge to order the ENTIRE amount you have won to be paid in a single payment.

   If the losing party cannot pay this amount, the Judge may arrange a monthly or weekly payment schedule agreement.

2. If you won the case by DEFAULT JUDGMENT (because your opponent did not appear in court), ask the Courtroom Clerk for the file and take it to the Clerk's Office to order a CERTIFIED COPY of the judgment. The certified copy of the judgment will be mailed to you. If you receive payment of the judgment, mail the lower portion of the certified copy of judgment to the Clerk's Office. This will notify the Clerk that the judgment has been paid and the case closed. The fee for a certified copy of judgment is $2.00.

3. If you do not receive your money within a reasonable time, call the Clerk's Office to seek information on how to collect.

   It is not the duty or function of the Court to pay or collect what is owed to you. IT IS YOUR RESPONSIBILITY TO TAKE ALL THE LEGAL ACTIONS NECESSARY TO COLLECT ON YOUR JUDGMENT.

   If you know that the losing party has a bank account in the District of Columbia or is employed in the District of Columbia, you may issue a WRIT OF ATTACHMENT on the losing party's bank account or to his/her place of employment. Attachment forms are available to you in the Clerk's Office. There is a Court fee of $10.00.

4. If you do not know of any assets of the losing party, visit the Small Claims Clerk's Office. The Clerk will assist you in issuing a subpoena to the losing party to appear in court for an ORAL EXAMINATION as to the whereabouts of his/her assets. The fee is $5.00.

MAY I DO ANYTHING IF I LOSE?

1. Remember that you may lose a case by default simply because YOU ARE NOT PRESENT on the hearing date. If you are notified that you have a Default Judgment against you, or your case has been dismissed, YOU MAY STILL HAVE A WAY OUT. Ask yourself these questions:

   WAS I NOTIFIED OF THE HEARING DATE OF MY TRIAL?

   DID I HAVE A GOOD REASON OR EXCUSE FOR NOT APPEARING IN COURT?

NOTE: The wages of government employees are not attachable.

If you did not know about the hearing date or had a good reason for not appearing, notify the Clerk right away. You will need to file a MOTION TO VACATE the Default Judgment or a MOTION TO REINSTATE the case if it was dismissed. The fee is $5.00.

A hearing date will be set to hear your arguments as to why the decision should be set aside. If your motion is granted by the Court, the case is reopened and you will have an opportunity to have a trial before the Judge.

2. If you lost your case in a Small Claims Court hearing, YOU MAY TRY TO GET A NEW TRIAL OR YOU MAY REQUEST THAT THE JUDGMENT BE "STAYED" (NOT IMMEDIATELY EXECUTED) BECAUSE YOU ARE GOING TO APPEAL. A motion for a new trial is filed with the judge that heard the trial. You may file your motion for a new trial in the Clerk's Office for forwarding to the trial Judge.
3. You may APPEAL the Judge's deicision to the D.C. Court of Appeals. If you decide to appeal, you have three business days from the date of the Judge's decision to file an application. The applications are in the Small Claims Clerk's Office. After you have completed the application forms, a clerk will direct you to the D.C. Court of Appeals Clerk's Office for filing of your appeals application. Appeals from the Small Claims Court are not automatic. The Court of Appeals will decide whether or not to consider your appeal.

REMEMBER, THE SMALL CLAIMS CLERK IS THERE TO HELP YOU. IF YOU HAVE A PROBLEM OR QUESTION ABOUT YOUR CASE, CALL HIM/HER. ALWAYS GIVE HIM/HER YOUR CASE NUMBER WHICH IS ON YOUR STATEMENT OF CLAIM.

NOTE: A VIDEO TAPE is available to further help you understand the procedures for filing a claim in Small Claims Court. You may view this nine-minute film in the Small Claims Clerk's Office, Room JM-260.

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APPENDIX III

SUBJECT INDEX

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